

City Council Minutes – September 5, 2006

COUNCIL CHAMBER, Topeka, Kansas, Tuesday, September 5, 2006. The Councilmembers of the City of Topeka met in regular session at 6:00 P.M., with the following Councilmembers present: Councilmembers Kennedy, Alcala, Ortiz, Nave, Haynes, Duffy, Preisner and Harmon -8. Mayor Bunten presided. -1. Absent: Councilmember Blackburn -1.

AFTER THE MEETING was called to order, Councilmember Haynes, gave the invocation.

THE PLEDGE OF ALLEGIANCE was recited by those present in the chamber.

Councilmember Ortiz requested to pull item 3G, Minutes of the regular meeting of August 22, 2006 from the consent agenda for separate discussion.

Councilmember Preisner requested to pull item 3E, a Workers' Compensation Settlement Claim for Mark Meier from the consent agenda for separate discussion.

THE CONSENT AGENDA was presented as follows:

A COMMUNICATION recommending the appointment of Doug Snook, 3216 SW Westwood Court, to the Board of Plumbing Examiners for a two-year term that would expire on September 30, 2008, was presented.

A COMMUNICATION recommending the re-appointment of John Williams, 2435 SE Madison to the Board of Zoning Appeals for a three-year term that would expire on September 30, 2009, was presented.

A COMMUNICATION appointing Ivan Weichert, 1932 SW Collins, to the Board of Zoning Appeals for a three-year term that would expire on May 31, 2009, was presented.

A COMMUNICATION recommending the appointment of James Lagerberg, 1811 Campbell, to the Washburn University Board of Regents to fill an unexpired term that would expire on June 30, 2007, was presented.

RESOLUTION NO. 7852 introduced by Councilmember Lana Kennedy, granting Burlington Northern Santa Fe an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions, was presented.

Councilmember Preisner moved to approve the remainder of the consent agenda. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

A COMMUNICATION authorizing a Workers' Compensation Settlement for Mark Meier in the amount of \$28,000 was presented.

Councilmember Preisner moved to approve the communication. The motion seconded by Councilmember Haynes carried. Councilmembers Alcalá, Duffy and Preisner voted "no". (5-3-0)

Minutes of the regular meeting of September 5, 2006 were presented.

Councilmember Ortiz stated that she believes there are a number of discrepancies relating to the amendments made to the 2007 Operating Budget. She asked the Council to review the minutes and contact the Council Office with any questions.

Councilmember Ortiz moved to defer the minutes of the regular meeting of August 22, 2006 for one week. The motion seconded by Councilmember Haynes carried unanimously. (8-0-0)

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to court ordered costs and fees, witness fees, contempt powers, warrants, arrest procedures, sentencing procedures and parole, repealing City of Topeka Code Sections 50-47, 50-49 and 50-

50, amending City of Topeka Code Sections 50-26, 50-41, 50-54, 50-60, 50-64, 50-99 and 50-101, and repealing said original sections, placed on first reading July 11, 2006 was again presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Brenden Long, City Attorney stated that sections 6, 7, 8 and 9 are included in another ordinance that is forthcoming. He suggested that they delete the sections from the ordinance.

Judge Ebberts explained the section of the ordinance relating to court costs and fees. He also stated that there are a number of items that need to be removed from the ordinance because they do not relate to current Municipal Court procedure.

Councilmember Haynes suggested that the ordinance be discussed in a work session to further explain the necessary changes.

Councilmember Preisner moved to amend the ordinance by adding "Police Department Equipment fund of \$5.00" at the end of line 84, and delete sections 6, 7, 8 and 9. The motion was seconded by Councilmember Ortiz.

Mayor Bunten noted that the ordinance establishing the Police Department Equipment fund has not yet been adopted.

Councilmember Haynes made a substitute motion to defer the ordinance until after it is reviewed in a work session. The motion seconded by Councilmember Harmon carried.

Councilmembers Nave, Duffy and Preisner voted "no". (5-3-0)

AN ORDINANCE introduced by Councilmember Brett Blackburn amending City of Topeka Code Section 2-336 by establishing a police department equipment fund, placed on first reading August 22, 2006 was again presented.

Councilmember Preisner moved to defer the ordinance for one week. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

A DENIAL OF CLAIM APPEAL by Steve Rothrock seeking \$300.00 for damages sustained to the sprinkler system pipes at his residence located at 5956 S.W. Clarion Lane was presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Preisner moved to approve the claim in the amount of \$300. The motion seconded by Councilmember Alcalá failed. Councilmembers Nave, Haynes, Duffy and Harmon voted “no”. (4-4-0)

A DENIAL OF CLAIM APPEAL by Robert D. Ediger seeking \$486.11 for damages sustained to the sprinkler system pipes at his residence located at 5957 SW Clarion was presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Alcalá moved to deny the claim. The motion was seconded by Councilmember Kennedy.

Councilmember Kennedy expressed concern with the City denying claims that she believes they are responsible for.

Councilmember Kennedy withdrew the second to the motion.

Councilmember Duffy seconded the motion.

The motion to deny the claim failed. Councilmembers Kennedy, Alcalá, Ortiz and Preisner voted “no”. (4-4-0)

A PUBLIC IMPROVEMENT PETITION, A PROJECT BUDGET in the amount of \$470,000 and RESOLUTION NO. 7853 introduced by City Manager Norton N. Bonaparte, Jr.,

authorizing Sanitary Sewer Improvement Project No. 40936-01, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, was presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Alcalá moved to approve the public improvement petition, project budget and resolution. The motion seconded by Councilmember Ortiz carried unanimously. (8-0-0)

RESOLUTION NO. 7854 introduced by City Manager Norton N. Bonaparte, Jr., authorizing an expenditure from the Softball/Sports Facilities Reserve Fund for ongoing maintenance at any Parks and Recreation of Topeka softball facilities, pursuant to City of Topeka Ordinance No. 16269 was presented.

Councilmember Alcalá moved to approve the resolution. The motion was seconded by Councilmember Ortiz.

Councilmember Duffy stated that the resolution is not necessary because it is a carryover policy from the old form of government. He suggested that staff follow the new policy that allows the City Manager to authorize these types of fund transfers and report them to the Council annually.

The motion to approve the resolution carried unanimously. (8-0-0)

RESOLUTION NO. 7855 introduced by City Manager Norton N. Bonaparte, Jr., setting the public hearing for Street Improvement Project No. 60619-00 which provides for paving certain streets located in Horseshoe Bend Subdivision, as more specifically described herein was presented.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Brenden Long, City Attorney suggested that the resolution be amended to reflect the actual number of units.

Councilmember Preisner moved to amend the resolution as stated by the City Attorney. The motion seconded by Councilmember Alcalá carried unanimously. (8-0-0)

Councilmember Alcalá moved to approve the resolution as amended. The motion seconded by Councilmember Preisner carried unanimously. (8-0-0)

ORDINANCE NO. 18706 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of August 7, 2006, through August 13, 2006, and enumerating said expenditures therein was presented for first and final reading.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Preisner moved to approve the ordinance. The motion seconded by Councilmember Nave carried. Councilmember Alcalá voted “no”. (7-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Nave, Haynes, Duffy, Preisner and Harmon -7. Noes: Alcalá -1. Absent: Blackburn -1.

ORDINANCE NO. 18707 introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of August 14, 2006, through August 20, 2006, and enumerating said expenditures therein was presented for first and final reading.

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Preisner moved to approve the ordinance. The motion seconded by Councilmember Ortiz carried. Councilmember Alcalá voted “no”. (7-1-0)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Nave, Haynes, Duffy, Preisner and Harmon -7. Noes: Alcalá -1. Absent: Blackburn -1.

ORDINANCE NO. 18708 introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 713 SW Topeka Blvd. in the City of Topeka, Kansas from "C-3" Commercial District TO "O&I-3" Office and Institutional District placed on first reading July 11, 2006 was again presented. (Z06/10)

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Preisner moved to approve the ordinance. The motion was seconded by Councilmember Alcalá.

Mayor Bunten asked if there were any additional exparte communications besides Councilmembers Kennedy and Alcalá. There were none declared.

Councilmember Duffy asked if the zoning case had been on the agenda previously, and if it was remanded back to the Planning Commission.

David Thurbon, Planning Director stated that the zoning application was remanded back to the Planning Commission from the meeting of July 18, 2006 by a 4-3-0 vote of the Council. He stated that the Planning Commission reheard the proposal on August 21, 2006, and recommended approval because the proposed zoning change is a more appropriate use for the area.

Mayor Bunten asked if the water problem caused by the parking lot has been resolved.

David Thurbon stated that it was his understanding that the Engineering Department has corrected the problem.

The motion to approve the ordinance carried. Councilmember Alcalá abstained. (7-0-1)

The ordinance was adopted on roll call vote as follows: Ayes: Kennedy, Ortiz, Nave, Haynes, Duffy, Preisner and Harmon -7. Abstentions: Alcalá -1. Absent: Blackburn -1.

RESOLUTION NO. 7856 introduced by City Manager Norton N. Bonaparte, Jr. in accordance with Section 48-14.02(c)(10) of the Code of the City of Topeka, approving a Conditional Use Permit for the purpose of a vehicle surface parking lot on property zoned “O&I-3” Office and Institutional District and located at 713 SW Topeka Boulevard in the City of Topeka, Kansas, was presented. (CU06/5)

Norton N. Bonaparte, Jr., City Manager gave the staff report.

Councilmember Preisner moved to approve the resolution. The motion seconded by Councilmember Duffy carried. Councilmember Alcalá abstained. (7-0-1)

AN ORDINANCE introduced by Councilmember Lana Kennedy, relating to construction of parking lots and establishing Topeka City Code Chapter 26, Article XIV and Sections 26-660 and 26-662 was presented for first reading.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., amending City of Topeka Code Sections 146-196, 146-283, and 146-354 through 146-367, and specifically repealing said original sections was presented for first Reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 30260-00, which provides for design and construction services for a new Animal Health Clinic at the City of Topeka Zoo to create a total minimum working environment of 2,400 square feet, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka was presented for first reading.

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the project budget and authorizing as amended Improvement Project No. 13144-01 which provides for improvements to the Law Enforcement Center was presented for first reading.

AN ORDINANCE introduced by Councilmember Lana Kennedy authorizing the purchase, possession and consumption of cereal malt beverages during the Celebration of Mexican Independence Day on September 16, 2006, in downtown Topeka was presented for first reading.

AN ORDINANCE introduced by Deputy Mayor Jeff Preisner, relating to the payment of gasoline and/or diesel fuel, amending City of Topeka Code Chapter 30 was presented for first reading.

Councilmember Preisner moved to refer the ordinance to the Policy and Finance Committee. The motion seconded by Councilmember Nave carried unanimously. (8-0-0)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing an amendment to the project budget for Project No. 70200-01, which provides for reconstruction of S.W. Wanamaker Road from S.W. 37th Street to S.W. 39th Street, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, and repealing City of Topeka Ordinance No. 18089 was presented for first reading.

PRESENTATIONS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE CITY COUNCIL, were presented.

Councilmember Alcala encouraged everyone to attend the Memorial honoring the victims of the 9/11 Tragedy on Monday, September 11, 2006 at 6:00 a.m. in the east parking lot of the Kansas Expocentre. He noted that the event would continue until the bell rang 3,148 times symbolizing each life lost in the 9/11 tragedy.

Councilmember Ortiz inquired on the injured Street Department employee.

Norton N. Bonaparte, Jr., City Manager stated that he is home and recovering.

Brenden Long, City Attorney stated that item 4B, the ordinance establishing a Police Department Equipment fund needs to be deferred in conjunction with the companion ordinance item 4A, relating to Municipal Court procedure.

Councilmember Ortiz moved to defer the ordinance until after a work session is scheduled. The motion seconded by Councilmember Alcala carried unanimously. (8-0-0)

Pat DeLapp, Jason Morris, Shirley Morris, John Morris and Lawrence Wheeler appeared to speak under public comment.

Councilmember Preisner moved to adjourn into executive session for a period not to exceed ten minutes to discuss a personnel matter. The motion seconded by Councilmember Nave carried.

Following a ten minute time period, a motion was made by Councilmember Kennedy and seconded by Councilmember Ortiz to extend the executive session for an additional ten minutes. The motion carried.

Following the additional ten minute time period, a motion made by Councilmember Kennedy and seconded by Councilmember Ortiz to extend the executive session for an additional fifteen minutes carried.

Following the additional fifteen minute time period, the Council reconvened into open session. Mayor Bunten stated that no action had been taken.

NO FURTHER BUSINESS appearing the meeting was adjourned at 8:30 p.m.

Iris Walker
City Clerk